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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09/990,415	11/28/2001	Steven A. Van Slyke	83401RLO	4107

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EXAMINER
BUEKER, RICHARD R

ART UNIT	PAPER NUMBER
1763	

DATE MAILED: 06/04/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/996,415

Applicant(s)

VAN SLYKE ET AL

Examiner

Richard Bueker

Art Unit

1763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133)
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claims 1, 3-7, 15 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 23 as amended, the phrase "the bias heater power source" lacks clear antecedent basis because claim 1, at line 16, recites "a bias heater power supply", rather than a "power source". Since the purpose of including the additional claim language is to clearly distinguish over the power supply structure disclosed in the Spahn patent, consistent terminology should be used for the sake of achieving the desired clarity of meaning. This rejection will be removed if claim 1, line 23 is further amended to change "power source" to "power supply".

Claims 1, 3-6, 15 and 17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Spahn in view of Green and Yamazaki for the reasons stated in the previous office action (paper no. 8, mailed Oct. 16, 2002). This rejection will be removed if claim 1, line 23 is further amended to change "power source" to "power supply".

Claim 7 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Spahn in view of Green, Yamazaki, Tanabe and Takagi, and in further view of Steube for the reasons stated in the previous office action (paper no. 8). This rejection will be removed if claim 1, line 23 is further amended to change "power source" to "power supply".

Claims 1, 3-6, 15 and 17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Spahn in view of Green and Yamazaki for the reasons stated in the

first office action (paper no. 2, mailed Feb. 13, 2002), and in further view of Soden (5,532,102). Soden (see Figs. 5 and 7, and col. 21, line 45 to col. 22, line 63) discloses a vacuum evaporation crucible source analogous to that of Spahn, Green and Yamazaki. Soden's evaporation source includes a crucible body and a lid defining a linear vapor efflux aperture. Soden's evaporation source includes an electric resistance heater for heating the crucible and a separate electric resistance heater for heating the lid. Soden teaches that both heaters can be heated by the same power source (as in Spahn) or a separate power source can be provided for each heater. Soden teaches that both alternatives provide acceptable results, but that the embodiment using two separate power sources is more desirable because it desirably provides independent control of the two heaters for more operating flexibility. If, for argument's sake, applicants' claims were considered to require two separate power supplies for the recited bias heater and vaporization heater, such would have been obvious, because it would have been obvious from the teachings of Soden to provide two separate power sources for the two heaters of Spahn to provide independent control and more operating flexibility.

Claims 2, 8-14, 16 and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Spahn in view of Green, Yamazaki and Soden for the reasons stated above, and taken in further view of Tanabe and Takagi for the reasons stated in the first office action (paper no. 2, mailed Feb. 13, 2002).

Claims 7 and 12-14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Spahn in view of Green, Yamazaki, Soden, Tanabe and Takagi, and in further view

Art Unit: 1763

of Steube for the reasons stated in the first office action (paper no. 2, mailed Feb.13, 2002).

Applicants have argued that their invention improves upon the apparatus of Spahn by providing an electrically insulative container that is separate from a resistive heater that surrounds the container, thus allowing the container to be cleaned separately from the heater. It is noted, however, that Spahn at col. 1, lines 42-47, describes such an arrangement as being well known in the art, and Green also illustrates such an arrangement. Applicants have argued that there is no motivation for substituting an electrically insulative container of the type taught by Green for a resistively heater container as used by Spahn. It is noted, however, that the two different approaches to heating an evaporator are well known in the prior art as functionally equivalent alternatives to one another, and for that reason, it would have been obvious to substitute one approach for the other, because both approaches are known to be successful in producing a vapor stream for coating a substrate.

Applicants have argued that there is no suggestion for using two separate power supplies for the two separate heaters of Spahn. It is noted, however, that Soden teaches that two separate heaters on an evaporation source can be powered by a single power supply, or alternatively, the two heaters can be powered by two separate power supplies. Thus, the two possible approaches to supplying power to two separate heaters are clearly laid out by Soden. Furthermore, Soden (col. 22, lines 42-46) points out the main advantage of having two separate power supplies, which is "enabling independent control" of the upper and lower parts of the evaporator. One skilled in the

Art Unit: 1763

art would readily recognize the advantage of enabling independent control of the to heaters of Spahn.

Applicants have also argued that the cited references fail to suggest the size of the walls of the container needed to provide the separation of the two heaters that is necessary for the two heaters to be independent. It is noted, however, that, in view of Soden's suggestion (col. 22, lines 49-57) that maintaining two heaters separate from each other is desirable, the further step of locating two heaters, such as those described by Spahn, separate from each other is well within the level of skill of one skilled in this art.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Bueker whose telephone number is (703) 308-1895. The examiner can normally be reached on 9 AM - 5:30 PM, Monday-Friday.

Art Unit: 1763

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Mills can be reached on (703) 308-1633. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Richard Bueker
Richard Bueker
Primary Examiner
Art Unit 1763

June 2, 2003